

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

SUSAN WELCHLY and ASHLEY
SUMMERS, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

AVENUE BANK

Defendant.

CASE NO.: 3:13-CV-00775

CHIEF JUDGE HAYNES, JR.

**DEFENDANT AVENUE BANK'S MOTION TO DISMISS,
FOR JUDGMENT ON THE PLEADINGS AND TO STRIKE JURY DEMAND**

Defendant Avenue Bank respectfully moves the Court, pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6) and 12(c), to enter judgment in its favor and to dismiss Plaintiffs' claims against it with prejudice. In support of its Motion, Avenue Bank states that it is entitled to judgment on the pleadings under Fed.R.Civ.P. 12(c) based on the Complaint and Verified Answer, which establish that Plaintiffs' claims are moot and that Plaintiffs lack standing. Additionally, Plaintiffs' claims fail to state a claim upon which relief may be granted under Fed.R.Civ.P. 12(b)(6). Finally, if the Court deems dismissal inappropriate, the Court should strike their jury demand because their claims are for declaratory judgment and injunctive relief, which are not appropriate for a jury. Avenue Bank respectfully submits the accompanying Memorandum of Law in support of this Motion and a Proposed Order.

ORDER
In light of the
amended Complaint,
the motion is DENIED as
moot. In light of the
proposed
settlement
talks, the
Defendant's
motion
to
dismiss
CD 12 No
26) is
DENIED
without
prejudice
to them,
if the
parties
do not
settle. The
Defendant
may renew
its motion by
incorporating
by reference its
latest motion
papers

Will
12-18-13